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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 09/893,981 | 06/29/2001 | Paul M. Cohen | 219.40063X00 | 6159 |
| 23838 | 7590 | 03/15/2006 | EXAMINER | |
| KENYON & KENYON LLP 1500 K STREET N.W. SUITE 700 WASHINGTON, DC 20005 | | | SURYAWANSI, SURESH | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2115 | |
| DATE MAILED: 03/15/2006 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-----------------------------------|-------------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 09/893,981 | COHEN ET AL. | |
| | Examiner Suresh K. Suryawanshi | Art Unit 2115 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 30 December 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 1-3,7-10,12,13 and 15 is/are allowed.
- 6) Claim(s) 4-6,11 and 14 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date: _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-15 are presented for examination.
2. The text of those sections of Title 35 U.S. Code not included in this action can be found in the prior office action.
3. Claims 4-6, 11 and 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Ishikawa et al (US Patent No 6,526,516 B1; hereinafter Ishikawa¹).
4. As per claim 4, Ishikawa discloses a computer system, comprising:
 - a plurality of computers, each computer having a power requirement [Fig. 8 and 12; col. 26, lines 38-41];
 - a power supply to supply power to said plurality of computers, said power supply having a known power capacity [Fig. 8 and 12; col. 6, lines 5-6; col. 6, line 64 -- col. 7, line 3];
 - a power monitor to monitor the total power requirement of said plurality of computers [Fig. 8 and 12; col. 11, lines 62-67; controller]; and

¹ The prior art reference cited by the examiner in the prior office action.

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a power controller responsive to a request for power from an additional computer, resulting in a new total power requirement, to determine whether the new total power requirement exceeds the known power capacity, and responsive to the new total power requirement exceeding the known power capacity to cause said power supply to continue to provide the total power requirement of said plurality of computers and to provide only standby power to said additional computer [Fig. 8 and 12; col. 11, line 55 -- col. 12, line 24; new device stays in sleep mode if the controller determines that the system cannot fulfill the new total power requirement].

5. As per claim 11, Ishikawa discloses a process of controlling power supplied to a plurality of computers [Fig. 8 and 12], said process comprising:

determining the power available [col. 10, lines 55-64];

monitoring the total power requirement of a plurality of computers [col. 10, line 55 -- col. 11, line 10];

in response to detection of a request for power from an additional computer, determining the new total power requirement [col. 11, line 55 -- col. 12, line 15]; and

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when the power available is less than the new total power requirement, continuing to provide the total power requirement of the plurality of computers and providing only standby power to the additional computer [col. 11, line 55 -- col. 12, line 24; new device stays in sleep mode if the controller determines that the system cannot fulfill the new total power requirement].

6. As per claim 14, Ishikawa discloses an article, comprising a storage medium having instructions stored thereon, the instructions when executed controlling power supplied to a plurality of computers by determining the power available [col. 26, lines 42-47];

monitoring the total power requirement of a plurality of computers [col. 10, line 55 -- col. 11, line 10];

in response to detection of a request for power from an additional computer, determining the new total power requirement [col. 11, line 55 -- col. 12, line 15]; and

when the power available is less than the new total power requirement, continuing to provide the total power requirement of the plurality of computers and providing only standby power to the additional computer [col. 11, line 55 -- col. 12, line 24; new device stays in sleep mode if the controller determines that the system cannot fulfill the new total power requirement].

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7. As per claim 5, Ishikawa discloses that one of said computers is a server [col. 26, lines 38-41].

8. As per claim 6, Ishikawa discloses that a computer rack having said plurality of computers, said power supply, said power monitor, and said power controller therein [Fig. 12; col. 26, lines 38-41].

Allowable Subject Matter

9. Claims 1-3, 7-10, 12-13 and 15 allowed.

Response to Arguments

10. Applicant's arguments filed 12/30/05 in regards to claims 4-6, 11 and 14 have been fully considered but they are not persuasive.

11. In the remarks, applicants argued in substance that (1) Schmutz is not prior art under 35 U.S.C. 102(b); (2) Schmutz does not disclose claim 6; (3) Schmutz does not teach claims 4, 11 and 14.

12. As to point (1), Schmutz was a proper prior art under 35 U.S.C. 102(e) as of its filing date and was used as a secondary reference under 35 U.S.C. 103(a).

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13. As to point (2), the examiner agrees with applicants' position that Schmutz does not disclose claim 6. However, Schmutz was not used to reject claim 6. Ishikawa is used to reject claim 6.

14. As to point (3), the examiner agrees with applicants' position that Schmutz does not disclose claims 4, 11 and 14. However, Schmutz was not used to reject claims 4, 11 and 14. Ishikawa is used to reject claims 4, 11 and 14.

Conclusion

15. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suresh K. Suryawanshi whose telephone number is 571-272-3668. The examiner can normally be reached on 9:00am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas C. Lee can be reached on 571-272-3667. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

sk
March 8, 2006


THOMAS LEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100